

GUIDE
TO
LOCAL GOVERNMENT LENDING FOR BANKS



DEPARTMENT OF BANKING AND FINANCE
STATE OF GEORGIA

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Generally, political subdivisions of Georgia are restricted in their capacity to borrow money. These restrictions are contained in **Article IX, Section V**, Paragraphs I and V of the Constitution of Georgia. Failure to strictly comply with the debt limitations and requirements as outlined in these Sections can have serious legal implications for both the county officials and the banks which are party to the transactions.

Consequently, the Department of Banking and Finance has prepared the following information to guide bankers in handling loans to political subdivisions. The matters contained herein are applicable to the legal and documentary aspects of such lending and should not be construed as endorsing the credit worthiness of such loans. Further, loans should be supported by the opinion of the City or County Attorney in that borrowings may be subject to local constitutional amendments which may alter the following rules.

The Constitution permits debts to be incurred by political subdivisions without the consent of the electorate to pay expenses for the year in which the loans are made. Temporary loans to pay expenses for the year in which the loans are made where the cash flow into the treasury is not adequate to meet the immediate needs of the political subdivision are permitted. Requirements for such loans are as follows:

- ▶ May not exceed 75% of Gross Income from Taxes Collected in the calendar year preceding the year in which the loans are made;
- ▶ May not exceed 100% of the Anticipated revenue for the year in which the loans are made;
- ▶ Must mature and be payable on or before December 31 of the year in which the loan is made;
- ▶ No loans in this category may be outstanding from any preceding year. Renewals of previous year loans and loans to cover overdrafts of a previous year even though they maybe dated in the current year.

Loans which comply with the above restrictions are exempt from the lending bank's legal loan limitations under Code Section 7-1-285(b); however, banks are cautioned to adhere to principles of risk diversification. Such loans should be documented by a borrowing resolution adopted by the governing officials of the political subdivision stating specifically that each of the foregoing conditions exist, as well as the most recent audit report available on the records of the political subdivision. ***In addition to loans authorized by the Constitution, Sections 20-5-506 and 36-60-13 of the Code of Georgia authorize counties and municipalities to enter into financing arrangements covering multi-year lease, purchase or lease purchase contracts. Banks may provide financing to Georgia counties and municipalities that enter into long-term lease contracts subject to the conditions set forth in the above Code Sections.***

Failure to comply with the constitutionally prescribed conditions, conditions set forth in the Code, and failure to adequately support that compliance with proper documentation will cause the loan to be subject to the lending bank's loan limitations and could jeopardize collection of the debt upon challenge by taxpayers.

In addition to the temporary loans and loans authorized by state statute described above, the Georgia Constitution allows other borrowings by a political subdivision with the approval of the electorate. Aggregate debt, whether temporary, by special exemption, or approved by the electorate, may not exceed ten (10) percent of the assessed value of all taxable property within the political subdivision.

While all banks will be called upon from time to time to meet the needs of their local communities, they should observe safe and sound banking principles as well as the principles of risk diversification in considering loan requests.

RECOMMENDED FORM OF RESOLUTION

RESOLUTION

WHEREAS, under and by virtue of the Constitution of the State of Georgia, **Article IX, Section V**, Paragraph V, each city, county, and political subdivision of the State authorized to levy taxes is given the authority to make temporary loans between January 1 and December 31 in each year to pay expenses for such year upon certain conditions, and

WHEREAS, such conditions have been fulfilled by the (city, county, or political subdivision) as hereinafter appears, and

WHEREAS, the said (city, county, or political subdivision) has now outstanding no such temporary loans or renewals thereof made in any prior year, and

WHEREAS, the total gross income of said (city, county, or political subdivision) from taxes in the last preceding calendar year was \$___; and

WHEREAS, the total anticipated income (revenue) of the (city, county, or political subdivision) for the current year exceeds \$___, and

WHEREAS, the amount to be borrowed, \$_____, plus all other temporary loans of the (city, county, or political subdivision) for the current calendar year are less than the total anticipated revenue from all sources for such calendar year, and

WHEREAS, under the aforesaid authority, the (city, county, or political subdivision) may make such temporary loans in the current year in a total amount not to exceed \$___ which amount is seventy-five percent of \$____, and

WHEREAS, said temporary loans are needed by the (city, county, or political subdivision) to pay the current year's operating expenses, and

WHEREAS, _____ constitutes the governing body of the said (city, county, or political subdivision), and

THEREFORE, BE IT RESOLVED by the (governing body):

That the (city, county, or political subdivision) is hereby authorized to borrow from the (name of lender) sums of money to pay current year's operating expenses from time to time during the year, the aggregate amount of which is not to exceed \$____, said sums to bear interest not to exceed ___ percent per annum, and the entire amount, together with interest, to be repaid on or before December 31 of the current year. The money may be drawn upon from time to time as authorized by _____ and interest shall be paid only on that portion of the total sum which is utilized and only form the period of time it is used. The loan(s) shall be evidenced by promissory note(s) executed in the name of the (city, county, or political subdivision).

Borrower

Date